

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:18-cv-00057-MR

JAMES W. LOMICK,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
KEN BEAVER, <i>Administrator</i> ,)	
<i>Alexander Correctional Institution</i>)	
ROBERT DAVID MITCHELL,)	
GEORGE T. SOLOMON,)	
MARANDA MIMS)	
)	
Defendants.)	
)	

This matter is before the undersigned on the Response to Order and Motion to Excuse Attendance of Individual Defendants, or Alternatively, Reschedule the Court-Hosted Settlement Conference (the “Motion,” Doc. 100).

On February 18, 2021, the undersigned set a judicial settlement conference in this matter to occur by phone on March 3, 2021 beginning at 1:00 p.m. Doc. 99. The February 18 Order directed that Defendants and their counsel may participate in the settlement conference from any location they deem appropriate, provided that Defendants and their counsel participate using a single conference line. Id.

By the instant Motion, Defendants Ken Beaver, Robert David Mitchell, George T. Solomon, and Maranda Mims, ask the Court to excuse their personal

participation in the settlement conference. Defendants contend that their defense is being provided pursuant to the North Carolina Defense of State Employees Act (“DSEA”), and that under the DSEA, the State is responsible for the first \$150,000.00 of liability. They also state that settlement of Plaintiff’s claims for an amount under \$150,000.00 does not require Defendants’ consent and that it is highly unlikely that any settlement would exceed that amount. Additionally, Defendants assert that two of the Defendants, George Solomon and Ken Beaver, have scheduling conflicts with the March 3, 2021 date. Defendants therefore request that they be excused from personal participation in the judicial settlement conference or, alternatively, that the settlement conference be rescheduled to another date much later in March so that the individual Defendants can make necessary arrangements to be available.

While defense counsel and the NCDPS representatives may have authority to negotiate and enter a binding settlement on behalf of Defendants, as parties to the case Defendants themselves have a vested interest in the matter. Further, the personal participation of defendants in cases involving unrepresented plaintiffs can be beneficial in judicial settlement conferences.

Here, however, Plaintiff is represented by counsel and Defendants represent in the Motion that Plaintiff’s counsel has no objection to excusing

Defendants' attendance at the March 3, 2021 conference. Considering this position, the undersigned will allow the Motion.

IT IS THEREFORE ORDERED that the Response to Order and Motion to Excuse Attendance of Individual Defendants, or Alternatively, Reschedule the Court-Hosted Settlement Conference (Doc. 100) is **GRANTED**, and Defendants Ken Beaver, Robert David Mitchell, George T. Solomon, and Maranda Mims are **EXCUSED** from personally participating in the March 3, 2021 judicial settlement conference.

Signed: February 25, 2021



W. Carleton Metcalf
United States Magistrate Judge

